Previous Final Action

18

Office Action Summary	Application No. 09/839,887	Applicant(s) WILLETT, KEVIN R.
	Examiner Nikolas J. Uhlir	Art Unit 1773

-- The MAILING DATE of this communication appears on the cover she t with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 January 2003* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20,23,24,26,33-44,46-50,52-56,58-61 and 63-65* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20,23,24,26,33-44,46-50,52-56,58-61 and 63-65* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

1. This office action is in response to the amendment/arguments dated 1/24/03. Currently, claims 1-20, 23-24, 26, 33-44, 46-50, 52-56, 58-61, and 63-65 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 5-20, 23-24, 26, 33-39, 42-43, 56, 58-61, and 63-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Junker (US4994311) in view of Ford (US5545448).

4. Claim 5 requires An automotive weather seal comprising a substrate having a first portion formed of a first polymeric material and a second portion formed of a second polymeric material; and a colliquefiable powder coating directly adjacent the first portion and directly adjacent the second portion.

5. The limitation "colliquefiable powder coating" is an intended use limitations and do not appear to be further limiting in so far as the structure of the product is concerned. "[I]n apparatus, article, and composition claims, intended use must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the

prior art." *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967); *In re Otto*, 312 F.2d 937, 938, 136 USPQ 458, 459 (CCPA 1963). See MPEP § 2111.02. More succinctly, the applicant is claiming a powder coating prior to sintering/melting, and at the same time claiming a property of the final product after the powder is melted, i.e. the formation of a "colliquefied" coating, which applicant defines in the specification as a continuous film. However, if the prior art is capable of performing the same function as the instantly claimed invention, the prior art reads on the invention.

6. Regarding the limitations of claim 5, Junker teaches an automotive weather seal comprising a gripping part 5, and a sealing part 6, wherein the grip part 5 is manufactured from a plastic or rubber material (column 1, lines 55-58), whereas the sealing portion is manufactured from sponge rubber (column 2, lines 8-10). It is the examiners position that sponge rubber and plastic are different polymeric materials. Thus, applicant's requirement in claim 5 of two different polymeric materials is met. Further, Junker teaches that the surface of the sealing strip is provided with a decorative colored surface. This colored surface comprises a coating that is applied in powder form to the surface of the sealing strip, and subsequently heated to melt and fix the powder in place (column 2,lines 12-45). Although Junker teaches that when the powder is melted it forms "dots" on the surface of the strip (see column 3, lines 38-41) It is the examiners position that the powder coating taught by Junker is capable of forming a colliquefied powder coating, as it is specifically taught to be formed over "some or all" of the exposed external surface of the gripping part (column 2, lines 33-34). Thus, if the

powder is dispersed over "all" of the external surface, it reads on the limitations of claim 5.

7. However, Junker does not teach applying the powder coating to both the first polymeric portion and the second polymeric portion of the weather seal, as required by claim 5.

8. With respect to this deficiency, Ford et al. teaches a weather seal for an automobile that has a similar structure to that of Junker in that it comprises a gripping (carrier) portion and a sealing portion. Both the gripping and sealing portion are coated with a colored coating to match the paintwork or the interior of the vehicle (column 2, lines 20-33).

9. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to coat both the trim and sealing potion of the automotive weather seal of Junker with the decorative powder coating.

10. One would have been motivated to make this modification for aesthetic reasons, such as to match the weather seal with the paintwork and interior of an automobile, as described in Ford et al.

11. It should be noted that Ford et al. is relied upon solely for the teaching of the aesthetic benefit gained by coating both the seal and trim portions of a weather seal with a colored coating. The examiner does not purport that it would be obvious to substitute the specific colored coating of Ford for that of the powder coating taught by Junker. Further, regarding the modification of Junker to coat both the seal and trim portions of the weather seal. The examiner respectfully notes that while Junker only

teaches coating the gripping portion, the reference contains no language that indicates that the powder coating could not be applied to other portions of the weather seal. Further, it is noted that Junker teaches that both the gripping part and sealing part can be made of rubber (column 2, lines 5-11 and 55-60). Thus, as the grip portion and sealing portion can be made of similar materials, one of ordinary skill in the art would have a reasonable expectation of success in coating both the gripping and sealing portions of the Junker weather seal with the powder coating

12. Claim 6 requires the first polymeric material to be a thermoset material and the second polymeric material to be a thermoplastic material. Junker teaches that the gripping portion (2nd polymeric portion) is formed from plastics or a rubber material, whereas the sealing section (1st polymeric portion) is formed from sponge rubber, as stated above for claim 5. The examiner interprets plastic materials, to include thermoplastics and thermosetting materials. It would be obvious to one of ordinary skill in the art at the time the invention was made to select a thermoplastic or thermoset material for the gripping portion of Junker due to the fact that all plastic materials are taught as equivalent for forming the gripping portion. Further, foamed rubbers are generally thermosetting materials. Thus, the limitations of claim 6 are met.

13. Claim 7 requires a metallic reinforcing member connected to one of the first portion or the second portion. Junker teaches the use of a metal reinforcing member in the gripping portion (column 1, lines 58-60). Thus, this limitation is met.

14. Claim 8 requires the colliquefaction of the powder coating to have a thickness between 0.05-0.2mm. The limitations of claim 8 are intended use limitations, as the

applicant does not positively recite a fused coating. Rather the applicant has claimed what the powder coating is capable of, i.e. its intended use to form a colliquefied coating. Thus, the examiner has interpreted this claim to require only a heat fusible powder coating, as required by claim 5. Applicant is referred to section 5 of this office action.

15. Claim 9 requires the powder coating to be a thermoset material and the second polymer material to be a thermoplastic material. With respect to the limitation requiring the second material to be a thermoplastic material, this limitation is met as set forth above for claim 6. Regarding the other limitations in this claim, Junker teaches that the powder coating comprises powdery thermoplasts, half-crosslinked powdery products, or crosslinked powdery elastomers (column 2, lines 46-55). The examiner takes the position that crosslinked powdery elastomers are thermosetting materials. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to select thermoset materials or a mixture of thermoset and thermoplastic materials for the powder coating, as powders "comprising" thermoplasts and crosslinked powdery materials are taught to be equivalent to the other materials specified as suitable by Junker.

16. The limitations of claims 10-15. These claims are essentially identical to claims 5-9, with the only difference in claim 10 from claim 5 being the substitution of the phrase "a weather seal body" for the phrase "a substrate" in step "a" of claim 10. Thus, these limitations are met as set forth above for claim 5-9.

17. Claim 16 requires the weather seal of claim 10 to further comprise a U-shaped metallic reinforcing layer. As shown by figure 1 of Junker, metal reinforcing member 10 is substantially U-shaped (see figure 1). Thus, this limitation is met.

18. Claim 17 requires the powder coating to be selected to form a contiguous colliquefaction. The limitations of claim 17 are intended use limitations, as the applicant does not positively recite a fused coating. It is the examiners position that the coating powder coating taught by Junker could perform this function. Thus, the limitations of claim 17 are met. Applicant is referred to section 5 of this office action.

19. Claim 18 requires the powder coating to be located to form a sealing surface. As stated above for claims 5 and 10, Junker as modified by Ford teaches coating the sealing surface with a powder coating to form a decorative surface. Thus, the limitations of claim 18 are met.

20. Regarding the limitations of claim 19, wherein the applicant requires the powder coating to have a gloss appearance. Although Junker does not specifically teach this limitation, it is the examiners position that the powder coating of Junker will be glossy "to some degree." Thus, the limitations of this claim are met as set forth above for claim 10.

21. Regarding the limitations of claim 20, wherein the applicant requires a weather seal for sealing an interface between two confronting surfaces in an automotive vehicle, wherein the weather seal comprises a polymeric base formed of a first material, a resilient sealing portion formed for contacting one of the confronting surface, wherein the resilient portion is formed from a second material, and a heat fusible powder coating

directly on at least a portion of the base and directly on a portion of at least the sealing portion. This limitation is met as set forth above for claim 5, as the examiner interprets the gripping portion of Junker to be equivalent to applicants claimed "base" portion.

22. Regarding the limitations of claim 23, wherein the applicant requires the base to include a trim portion, wherein the powder coating is on the trim portion. This limitation is met as set forth above for claim 20.

23. Regarding the limitations of claim 24, wherein the applicant requires a metallic reinforcing member in the base. This limitation is met as set forth above for claim 20.

24. Regarding the limitations of claim 26, wherein the applicant requires the base to further comprise a trim portion formed of a different material then the sealing portion, wherein the powder coating is on the trim portion. This limitation is met as set forth above claim 20.

25. Regarding the limitations of claim 33, wherein the applicant requires the trim portion to be a thermoplastic material. This limitation is met as set forth above for claim 6 when a thermoplastic material is utilized, as the examiner interprets the gripping portion of Junker to be equivalent to the claimed trim portion.

26. Regarding the limitations of claim 34, wherein the applicant requires the trim portion to be a thermoset material. This limitation is met as set forth above for claim 6 when a thermoset material is utilized, as the examiner interprets the sealing portion of Junker to be equivalent to the claimed "trim portion."

27. Claims 35-37 and 39 are met as set forth above for claims 20 and 23-24, as the examiner interprets the gripping and sealing portions taught by Junker to be equivalent

to applicants claimed substrate having a first portion comprising a first polymeric material and a second portion comprising a second polymeric material.

28. Claim 38 requires the substrate to have a U shaped cross section. Figure 1 of Junker establishes that the substrate is substantially U shaped.

29. Claims 42-43 are met as set forth above for claims 35 and 36.

30. Claim 56 requires a thermoset weather seal body including a sealing portion and a carrier portion, and a heat fusible powder thermosetting powder coating directly on the sealing portion and directly on the carrier portion. The examiner interprets the gripping portion of Junker to be equivalent to the claimed carrier portion. Thus, these limitations are met as set forth above for claim 6 when a thermoset material is utilized to form the gripping portion (see section 12 above), a sponge rubber (column 2, lines 9-10) is utilized to form the sealing portion, and a thermoset material is utilized to form the powder coating (column 2, lines 47-55 and section 15 above).

31. Claim 58 requires the weather seal of claim 56 to further comprise a trim portion, wherein one of the trim and sealing portions comprises a foamed, cellular, and sponge structure. The examiner interprets the gripping part 5 of Junker to be equivalent to the applicants claimed carrier portion and trim portion. Further, Junker as set forth above teaches that the sealing portion is formed from sponge rubber. Thus, the limitations of claim 58 are met.

32. Claim 59 requires a reinforcing member in the thermosetting weather seal body. As set forth above, column 1, lines 58-60 and figure 1 of Junker show the use of a metal reinforcement in the gripping portion of the weather seal.

33. Claim 60 is met as set forth above for claim 59.

34. Claim 61 is met as set forth above for claim 9 above when a thermoset material is utilized to form the gripping portion of the weather seal taught by Junker. The examiner interprets the gripping portion taught by Junker to be equivalent to applicants claimed trim portion.

35. Claim 63 requires one of the trim and seal portions to have a foamed, cellular, or sponge structure. As set forth above, Junker teaches that the sealing portion is formed from sponge rubber (column 2, lines 6-10). Thus, this limitation is met.

36. Claims 64-65 require a metal reinforcing member in the thermosetting weather seal body. Figure 1 and column 1, line 58-60 of Junker establishes the use of a metal reinforcement in the weather seal body. Further, the obviousness of utilizing a thermosetting body is established as set forth above for claim 6. Thus, the limitations of claims 64-65 are met.

37. Claims 1-4, 40-41, 44, 46-50, and 52-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Katoh et al. (US4291076) further in view of Junker and Ford.

38. Claim 1 requires an automotive weather seal; comprising a resilient polymeric body, a metal reinforcing member connected to the body, and a heat fusible powder coating directly on a portion of the metal reinforcing member and directly on a portion of the resilient polymeric body.

39. With respect to the limitations of claim 1, Katoh teaches an automotive weather seal comprising a metal sheet 2, a body 1, and layers 3a3, 3b3, lips 3c3 (figure 4b and column 3, lines 50-65). The metal layer 2 is considered by the examiner to be

equivalent to applicants claimed metal reinforcing layer. As can be seen from figure 4b, at least a portion of the metal layer 2 is exposed. The body 1, layers 3a3, 3b3, and lips 3c3 are made of polymer materials, and are considered by the examiner to be equivalent to applicants claimed resilient polymeric body (column 2, line 63-column 3, line 12).

40. However, Katoh fails to teach a heat fusible powder coating directly on the surface of the metal reinforcing member and directly on a portion of the resilient polymeric body, as required by claim 1.

41. However, with respect to this deficiency, Junker teaches a powder coating for automobile trim parts such as weather seals, wherein a powder coating is applied to the surface of the weather seal and the powder is subsequently melted (column 2, lines 35-45). This coating is preferably colored so as to match the weather seal to the trim of the vehicle (column 2, lines 12-30). Further, by coating the weather seal with via this powder coating, the expense and unsatisfactory results of other coating methods can be avoided (column 2, lines 25-45).

42. Further, Ford et al. teaches that for aesthetic reasons, both the gripping and sealing portions of automotive weather seals are adventitiously coated with a colored coating to match the paintwork or the interior of the vehicle (column 2, lines 20-33). The examiner considers the metal 2, body 1, and coating 1a3, 1b3, 1c3, and 3a3 of Katoh to be equivalent to the gripping portions referred to by Ford. Further, the examiner considers the coating 3b3 and lips 3c3 of Katoh to be equivalent to the sealing portions referred to by Ford.

43. Therefore it would have been obvious to one of ordinary skill in the art to utilize the powder coating taught by Junker to coat the entire weather seal taught by Katoh, including the body 1, metal 2, coatings 1a3, 1b3, 1c3, 3a3, 3b3, and lips 3c3.

44. One would have been motivated to make this modification due to the teachings in both Junker and Ford that weather seals are adventitiously coated with a colored coating so as to match the trim of a vehicle. One would have been motivated to coat the entire weather seal of Katoh in light of the teaching in Ford that both the gripping and sealing portions of a weather seal are preferably coated with a colored coating to match the trim of the vehicle. Last, one would have been motivated to utilize the powder coating taught by Junker in light of the fact that Junker teaches that the powder coating method avoids the expense and unsatisfactory results of other coating methods.

45. Regarding the combination of Katoh with Junker and Ford. The examiner acknowledges that this combination would result in the powder coating of Junker being disposed on the exposed metal surface in Katoh and that neither Ford nor Junker teach directly coating metal substrates. However, Katoh has clearly established that many polymeric materials are capable of adhering directly to the surface of the metal coating, as shown by the diagrams and the list of polymer materials at column 2, line 63-column 3, line 12 of Katoh. Thus, one of ordinary skill in the art would have been motivated to directly coat the metal layer of Katoh with the powder coating of Junker with a reasonable expectation of success.

46. Claim 2 requires the weather seal of claim 1 to comprise a trim portion and a sealing portion. It is the examiners position that the exposed portion of the metal 2 is

equivalent to the applicant's claimed trim portion and the 3b3 and lips 3c3 of Katoh to be equivalent to the applicant's claimed sealing portion.

47. Claim 3 requires an amount of powder to form a surface film of fused powder having a thickness less than 0.2mm. The limitations of claim 3 are intended use limitations, as the applicant does not positively recite a fused coating. Rather the applicant has claimed what the powder coating is capable of, i.e. its ability to form a fused coating of a specified thickness. Thus, the examiner has interpreted this claim to require only a heat fusible powder coating, as required by claim 1. Applicant is referred to section 5 of this office action. As the powder coating recited by Katoh as modified by Junker and Ford is capable of performing the recited use, it reads on the claim.

48. Claim 4 requires the metal reinforcing member to be partially covered by the polymeric body. As seen by figure 4b of Katoh, metal 2 is partially covered by body 1. Thus, this limitation is met.

49. Claim 40 requires a weather seal for an automotive vehicle, comprising a polymeric body, a metal reinforcing member connected to the body, one of the body and metal reinforcing member selected to engage the automotive vehicle, where a powder coating is directly adjacent a portion of the reinforcing member and directly adjacent a portion of the polymeric body. These limitations are met as set forth above for claim 1. Further, figure 4c clearly shows that polymeric body 2 of Katoh engages the automotive vehicle. Thus, the limitations of claim 40 are met.

50. Claim 41 requires the polymeric body to include a trim portion, this limitation is met as set forth above for claim 2.

51. Claim 44 requires a vehicle weather seal comprising a thermoplastic weather seal body having a sealing portion and a carrier portion, and a heat fusible powder coating directly on at least a portion of a surface of a sealing portion and the carrier portion. Regarding the requirement of a thermoplastic weather seal body, Katoh teaches that the polymeric body 2 is suitably made from acrylonitrile-butadiene-stryene, polycarbonate, polyphenylene oxide, acrylonitrile-styrene, polypropylene, polyvinyl chloride, polyamide or other materials.

52. Therefore, it would have been obvious to one of ordariny skill in the art at the time the invention was made to utilize polypropylene to form the body 2 of Katoh, as Katoh teaches the equivalence of polypropylene to the other materials listed as suitable for this purpose.

53. It is noted that polypropylene is a known thermoplastic material. The remainder of the limitations of claim 44 are met as set forth above for claim 1.

54. Claim 46 requires the weather seal of claim 44 to additionally comprise a trim portion, wherein one of the trim and sealing portions has a foamed, cellular, and sponge structure. The examiner interprets the exposed portion of the metal layer 2 of Katoh to be equivalent to applicant's claimed trim portion. The lips 3c3 of Katoh are considered by the examiner to constitute the claimed sealing portion. Katoh specifically teaches that the protective layers (which include lips 3c3) are suitably made from elastomers such as polyvinyl chloride, thermoplastic polyurethane, foamed rubber, and other materials (column 3, lines 4-12).

55. Therefore it would have been obvious to one of ordinary skill in the art to utilize foam rubber to form the lips 3c3 taught by Katoh, as Katoh recognizes the equivalence of foam rubber to the other materials listed as suitable for forming the lips.

56. The applicant is respectfully reminded that substitution of equivalents requires no express motivation so long as the prior art recognizes the equivalency.

57. Claims 47-48 require a metal reinforcing member in the thermoplastic weather seal body. This limitation is met as set forth above for claim 44.

58. Claim 49 requires the heat fusible powder coating to comprise one of a thermoplastic and a thermoset material. Junker teaches that the heat fusible powder can comprise powdery thermoplasts (thermoplastics), and crosslinked powdery elastomers (considered to be thermoset). Thus, this limitation is met when the powder of Junker is utilized.

59. Claim 50 requires thermoplastic weather seal body having a sealing portion and a trim portion, and a colliquefiable powder coating directly adjacent at least a portion of the sealing portion and the trim portion. These limitations are met as set forth above of claim 46. With respect to the requirement of a colliquefiable powder coating, this is an intended use limitation, as the applicant does not positively recite a fused powder coating. Rather, the applicant claims what the powder coating is capable doing. Thus, the examiner has interpreted this limitation to simply require a heat fusible powder coating on a surface. It is the examiners position that the heat fusible coating of Katoh as modified by Junker and Ford is capable of performing the intended use. Thus, the limitations of claim 50 are met.

60. Claims 52-55 are met as set forth above for claims 50 and 46-49.

Response to Arguments

61. Applicant's arguments filed 1/24/03 have been fully considered but they are not persuasive. In the instant case, the applicant's arguments turn on several key points: 1) The previously cited prior art does not teach a heat fusible coating "directly" on a portion of the metal reinforcing member; 2) Junker expressly limits the location of the powder coating to one material, and modification of Junker with Ford so as to coat two different materials with the powder coating of Junker is contrary to the teaching of both references unless the sprayable chemistry solution of Ford was utilized; and 3) The Junker reference teaches a coating which forms small dots of material on the surface of the weather seal, and thus does not constitute a colliquefiable powder coating.

62. The applicants argument with respect to the failure of the previously cited prior art to teach a heat fusible powder coating directly adjacent a surface of the reinforcing member is moot in view of the new grounds of rejection.

63. Regarding the applicant's argument that the combination of Ford with Junker goes against the teachings of Junker, as Junker expressly limits the location of the powder coating to a single material. This argument is unpersuasive. The examiner has carefully re-examined the Junker reference, and has found no language that supports the applicant's assertion that Junker is expressly limited to applying sinterable material on an outer surface of the rubber gripping part. It is true that the only examples given by Junker teach that the sinterable powder coating is applied only to the gripping portion. However, this does not limit the coating taught by Junker to "only" the gripping part. The

applicant is respectfully directed to column 1, lines 30-35 of Junker, wherein Junker states, "there is provided a strip having a surface of plastics or rubber material which has further material applied to it by sintering." Further, column 2, lines 5-10 and 55-60 establish that *both* the sealing part and the gripping part may be made of rubber. Thus, given that Junker expressly teaches that the sinterable material is applied to "plastics or rubber surfaces" and later teaches that *both* the seal and grip portions can be made of rubber is strong indication that the sinterable material is not expressly limited to only the grip portion. Thus, this argument is unpersuasive.

64. In response to applicant's argument that Junker teaches that the powder coating is sintered to form small dots on the surface and thus does not meet the requirement of a colliquefiable powder coating, this argument is directed towards an intended use limitation. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. See In re Casey, 152 USPQ 235 (CCPA 1967) and In re Otto, 136 USPQ 458, 459 (CCPA 1963). The examiner maintains that the sinterable powder coating of Junker is capable of performing the claimed intended use. Thus, this argument is unpersuasive.

Conclusion

65. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nikolas J. Uhlir whose telephone number is 703-305-0179. The examiner can normally be reached on Mon-Fri 7:30 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Thibodeau can be reached on 703-308-2367. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-0389.

Paul Thibodeau
Supervisory Patent Examiner
Technology Center 1700

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10/16/03